

Introduced by Senator Morrow

February 13, 2004

An act to add Chapter 13.5 (commencing with Section 7130) to Division 7 of Title 1 of the Government Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1268, as introduced, Morrow. State contracts and grants: faith-based organizations.

The California Constitution guarantees the free exercise and enjoyment of religion without discrimination or preference, and provides that the Legislature shall make no law respecting an establishment of religion.

This bill would provide that any faith-based organization is eligible, on the same basis as any other private organization, as a contractor or recipient of a grant under any program administered by a state agency, so long as the program is implemented consistent with the First Amendment to the United States Constitution, Section 4 of Article I of the California Constitution, and Section 5 of Article XVI of the California Constitution. The bill would prohibit a state agency from discriminating against an organization that is or applies to be a contractor, or applies for a grant, on the basis that the organization has a religious character.

The bill would prohibit a state agency from requiring a faith-based organization to alter its form of internal governance or to remove religious symbols in order to be eligible for a contract or grant. It would require the state agency to require a faith-based organization to agree to not require attendance or participation in religious activity as a condition or part of services provided. The bill would also require a state

agency, if an individual has an objection to the religious character of the organization or institution from which the individual receives, or would receive, assistance funded under any program administered by the state agency, to provide the individual, within 3 days after the date of the objection, with assistance from an alternative provider that is accessible and equally convenient to the individual.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 13.5 (commencing with Section 7130) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 13.5. THE CHARITABLE CHOICE ACT OF 2004

7130. (a) It is the intent of the Legislature in enacting this chapter to allow a state agency to contract with, or award grants to, any educational or social service organization that is exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code and is a faith-based organization, under any program administered by the state agency, on the same basis as any other nongovernmental provider without impairing the religious character of the faith-based organization, and without diminishing the religious freedom of beneficiaries of assistance funded under the applicable state programs.

(b) This chapter is intended to increase participation opportunities for faith-based organizations providing social services or educational programs that are not owned or operated as pervasively sectarian organizations. This chapter does not apply to any pervasively sectarian religious organization, but a separate nonprofit entity or affiliate of a sectarian religious organization that is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code may apply for and receive grants under its own auspices. Any grant or contract awarded shall comply with Section 4 of Article I, Section 5 of Article XVI of the California Constitution, and the First Amendment to the United States Constitution.

7131. If a state agency is authorized to contract with a nongovernmental entity, or is authorized to award grants to a

1 nongovernmental entity, any faith-based organization is eligible,
2 on the same basis as any other private organization, as a contractor
3 or recipient of a grant under any program administered by the state
4 agency so long as the program is implemented consistent with the
5 First Amendment of the United States Constitution and Section 4
6 of Article I of the California Constitution. A state agency may not
7 discriminate against an organization that is or applies to be a
8 contractor, or applies for a grant, on the basis that the organization
9 has a religious character.

10 7132. A state agency may not require a faith-based
11 organization to alter its form of internal governance or to remove
12 religious symbols in order to be eligible for a contract or grant. A
13 state agency shall require that a faith-based organization agree not
14 to require attendance or participation in any religious activity as
15 a condition or part of services provided.

16 7133. (a) A state agency, prior to a referral to a contracted
17 provider, shall provide the individual with the option of a
18 faith-based or nonreligious provider.

19 (b) If an individual has an objection to the religious character
20 of the organization or institution from which the individual
21 receives, or would receive, assistance funded under any program
22 administered by the state agency, the state agency shall, within
23 three days after the date of the objection, provide the individual,
24 if otherwise eligible for the assistance, with assistance from an
25 alternative provider that is accessible and equally convenient to the
26 individual. The value of the assistance offered by the alternative
27 provider may not be less than the value of the assistance that the
28 individual would have received from the faith-based organization.

